

October 17, 2014

REGULAR MEETING MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
October 17, 2014

I. CALL TO ORDER THE REGULAR OPEN MEETING AT 11:14 A.M. AT 160 NORTH LASALLE STREET, SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

Anita M. Cummings, Susan Moylan Krey, and Casey Urlacher, Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director; Jayne Bethard (by telephone), Mike Quinlan (by telephone), and Chris Nickols (by telephone), Illinois Department of Central Management Services; Jerome Holston (by telephone), Governor's Office; Emily Gibellina, House Republicans; Grace Hong Duffin, Lynn Oda, and Scott Viniard (by telephone), Illinois Department of Human Services; and Jessica McMiller Baptiste, Illinois Department of Juvenile Justice.

III. APPROVAL OF MINUTES OF REGULAR OPEN MEETING HELD ON SEPTEMBER 19, 2014

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER URLACHER, AND THE MOTION ADOPTED 3-0 TO APPROVE THE MINUTES OF THE REGULAR OPEN MEETING HELD SEPTEMBER 19, 2014.

IV. PUBLIC COMMENT IN ACCORDANCE WITH THE OPEN MEETINGS ACT

At this time, in accordance with the Open Meetings Act and the Rules of the Civil Service Commission, Executive Director Daniel Stralka offered an opportunity for any person to address members of the Commission. Hearing no response, the meeting proceeded to the next agenda item.

V. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE

A. Report on Exempt Positions from Illinois Dept. of Central Management Services

<u>Agency</u>	<u>Total Employees</u>	<u>Number of Exempt Positions</u>
Aging.....	135.....	18
Agriculture.....	344.....	20
Arts Council.....	15.....	2
Capitol Development Board.....	48.....	0
Central Management Services.....	1,409.....	115
Children and Family Services.....	2,656.....	50
Civil Service Commission.....	4.....	0
Commerce & Economic Opportunity.....	362.....	70
Commerce Commission.....	69.....	0
Corrections.....	10,995.....	99
Criminal Justice Authority.....	53.....	5
Deaf and Hard of Hearing Comm.....	7.....	1
Developmental Disabilities Council.....	9.....	1
Emergency Management Agency.....	81.....	5
Employment Security.....	1,284.....	30
Environmental Protection Agency.....	804.....	17
Financial & Professional Regulation.....	442.....	49
Gaming Board.....	159.....	6
Guardianship and Advocacy.....	105.....	7
Healthcare and Family Services.....	2,089.....	26
Historic Preservation Agency.....	160.....	16
Human Rights Commission.....	14.....	2
Human Rights Department.....	142.....	9
Human Services.....	12,060.....	75
Illinois Torture Inquiry Relief Commission.....	3.....	1
Independent Tax Tribunal.....	1.....	0
Insurance.....	239.....	16
Investment Board.....	4.....	2
Juvenile Justice.....	1,017.....	24
Labor.....	90.....	11
Labor Relations Board Educational.....	11.....	2
Labor Relations Board State.....	18.....	2
Law Enforcement Training & Standards Bd.....	17.....	2
Lottery.....	137.....	6
Military Affairs.....	123.....	3
Natural Resources.....	1,246.....	30
Pollution Control Board.....	22.....	2
Prisoner Review Board.....	17.....	0
Property Tax Appeal Board.....	32.....	1
Public Health.....	1,153.....	42
Racing Board.....	2.....	1
Revenue.....	1,733.....	54
State Fire Marshal.....	130.....	12
State Police.....	1,103.....	7
State Police Merit Board.....	5.....	2
State Retirement Systems.....	98.....	3
Transportation.....	2,223.....	0
Veterans' Affairs.....	1,375.....	9
Workers' Compensation Commission.....	127.....	11
TOTALS.....	44,372.....	866

B. Governing Rule – Section 1.142 Jurisdiction B Exemptions

- a) The Civil Service Commission shall exercise its judgment when determining whether a position qualifies for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code. The Commission will consider any or all of the following factors inherent in the position and any other factors deemed relevant to the request for exemption:
 - 1) The amount and scope of principal policy making authority;
 - 2) The amount and scope of principal policy administering authority;
 - 3) The amount of independent authority to represent the agency, board or commission to individuals, legislators, organizations or other agencies relative to programmatic responsibilities;
 - 4) The capability to bind the agency, board or commission to a course of action;
 - 5) The nature of the program for which the position has principal policy responsibility;
 - 6) The placement of the position on the organizational chart of the agency, board or commission;
 - 7) The mission, size and geographical scope of the organizational entity or program within the agency, board or commission to which the position is allocated or detailed.
- b) The Commission may, upon its own action after 30 days notice to the Director of Central Management Services or upon the recommendation of the Director of the Department of Central Management Services, rescind the exemption of any position that no longer meets the requirements for exemption set forth in subsection (a). However, rescission of an exemption shall be approved after the Commission has determined that an adequate level of managerial control exists in exempt status that will insure responsive and accountable administrative control of the programs of the agency, board or commission.
- c) For all positions currently exempt by action of the Commission, the Director of Central Management Services shall inform the Commission promptly in writing of all changes in essential functions, reporting structure, working title, work location, position title, position number or specialized knowledge, skills, abilities, licensure or certification.
- d) Prior to granting an exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the Commission will notify the incumbent of the position, if any, of its proposed action. The incumbent may appear at the Commission meeting at which action is to be taken and present objections to the exemption request.

(Source: Amended at 34 Ill. Reg. 3485, effective March 3, 2010)

* * *

C. Requests for 4d(3) Exemption

Executive Director Daniel Stralka reported the following:

- As to Item C, this request is from the Department of Human Services (DHS) and is for an Associate Director of Adult Services and Basic Supports in the Division of Family & Community Services (FCS), a position that reports to the Assistant Director of FCS who reports to the Director of FCS who reports to the Secretary. The position description indicates that this position has principal policy responsibility for planning, developing, organizing, controlling and managing homeless services, domestic violence services, and Title XX Social Services which include a variety of assistive services. The agency had noted that these are services that are not provided at its Family & Community Resource Centers.

Staff had a number of issues with this request. First and foremost is that the agency last appeared before the Commission with exemption requests for this Division 14 months ago and represented that it did not foresee the need for any additional exempt positions. It is now seeking an additional exempt position. Staff asked the agency to provide some sort of explanation such as a new program, program expansion or unforeseen increase in the need for services. The only explanation was that the agency had been unable to fill the position with an appropriately qualified candidate. No information about the steps that were taken to fill the position was provided. In light of the rather mundane position qualifications, it is surprising that this would be an issue. Also, the inability to find a successful candidate is not a factor as contemplated in Section 4d(3).

The second issue is with the program services themselves. These all appear to be assistive services provided to customers not by DHS, but by outside providers on contract, funded by the federal government through DHS. That leaves it a mystery to Staff as to what this position actually plans, develops, etc. as set forth in the position description.

For these reasons, Staff recommended denial of this request unless the agency is requesting additional time to provide responses to Staff inquiries.

Grace Hong Duffin, Chief of Staff-Illinois Department of Human Services, replied and concurred with this presentation. She noted that there were unforeseen circumstances that led to the agency submitting this request. The agency had sought to recruit a certified employee from its own ranks for this federally funded position. However it discovered that there was a lack of interest among its Public Service Administrators. Many of these employees had elected to laterally transfer to positions covered by collective bargaining agreements after the implementation of the Management Bill. The agency was left with a management void and lost key candidates who wanted to stay in positions covered by collective bargaining agreements.

Grace Hong Duffin added that it is accurate that this position will be in charge of monitoring services of outside providers to ensure that they are meeting Federal and State standards. She added that the agency is already losing domestic violence service providers which would be a responsibility of this position. The Division of FCS is designed to provide services to customers throughout the family cycle. A strong person is needed to fill this Associate Director position which has a strong policy component.

Executive Director Stralka inquired about the agency's efforts to fill the position by using open competitive lists or promotional lists. Grace Hong Duffin recalled that the agency had made one effort to do so but was unable to identify a qualified candidate. The CMS representatives were unable to provide any additional information. Executive Director Stralka noted that there is nothing in the Personnel Code which allows the Commission to approve an exemption request based on difficulty in filling a vacant position through traditional methods. Both the agency and CMS representatives indicated they would gather additional information about the agency's efforts in this regard.

Executive Director Stralka suggested to the agency that this matter be continued for one month to allow some additional information about the position to be exchanged as to the position's essential functions and the difficulties in using traditional appointment methods to fill the position. Grace Hong Duffin indicated the agency would be amenable to doing so. She added that one of the reasons the agency came before the Commission was to seek a different way to approach filling this important position. The Commissioners complimented Ms. Duffin's presentation and thanked her for attending the Commission's meeting.

- As to Item D, this is a request from the Department of Natural Resources for a Chief Special Assistant, a position that reports to the Director. This position serves essentially as a policy advisor to the Director and strategic planner for the agency. Importantly, this position was first granted an exemption back in 1994 but had its exemption rescinded in 2012 due to extended vacancy. The position recently had its collective bargaining exclusion restored which is most likely what prompted this request. Given this history, Staff recommended approval of this request.

IT WAS MOVED BY COMMISSIONER URLACHER, SECONDED BY COMMISSIONER CUMMINGS, AND THE MOTION ADOPTED 3-0, TO CONTINUE TO NOVEMBER 21, 2014 THE EXEMPTION REQUEST FOR THE FOLLOWING POSITION:

**C: Associate Director-Office of Adult Services and Basic Supports
(Human Services)**

IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER URLACHER, AND THE MOTION ADOPTED 3-0, TO GRANT THE EXEMPTION REQUEST FOR THE FOLLOWING POSITION:

D: Chief Special Assistant (Natural Resources)

The following 4d(3) exemption request was continued to November 21, 2014 on October 17, 2014:

C. Illinois Department of Human Services

Position Number	40070-10-96-444-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Division of Family & Community Services
Functional Title	Associate Director-Office of Adult Services and Basic Supports
Incumbent	Vacant
Supervisor	Assistant Director, Division of Family & Community Services, who reports to the Director, Division of Family & Community Services, who in turn reports to the Secretary
Location	Cook County

The following 4d(3) exemption request was granted on October 17, 2014:

D. Illinois Department of Natural Resources

Position Number	37015-12-00-000-20-01
Position Title	Public Service Administrator
Bureau/Division	Office of the Director
Functional Title	Chief Special Assistant
Incumbent	Vacant
Supervisor	Director
Location	Sangamon County

VI. CLASS SPECIFICATIONS

A. Governing Rule – Section 1.45 Classification Plan

The Commission will review the class specifications requiring Commission approval under the Classification Plan and will approve those that meet the requirements of the Personnel Code and Personnel Rules and conform to the following accepted principles of position classification:

- a) The specifications are descriptive of the work being done or that will be done;
- b) Identifiable differentials are set forth among classes that are sufficiently significant to permit the assignment of individual positions to the appropriate class;
- c) Reasonable career promotional opportunities are provided;
- d) The specifications provide a reasonable and valid basis for selection screening by merit examinations;
- e) All requirements of the positions are consistent with classes similar in difficulty, complexity and nature of work.

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The following class titles were submitted for abolishment and revision by the Director of the Illinois Department of Central Management Services (CMS):

B. Police Officer Trainee (abolish)

Police Officer I (revise)

Police Officer II (revise)

Police Officer III (revise)

Staff Analysis: Assistant Executive Director Barris explained to the Commission that the proposed abolishment of the Police Officer Trainee class and revisions to the Police Officer I, Police Officer II, and Police Officer III classes were proposed because the classes not been changed since 1984 and the series was no longer used by any state agency other than the Illinois State Police. Therefore, minor changes to terminology and/or updated language was necessary. In addition, the abolishment and revisions were agreed to through collective bargaining and there were no changes to compensation.

C. Research Economist I (abolish)

Staff Analysis: Assistant Executive Andrew Barris explained that at the June 20, 2014 meeting, the Commission approved the creation of the Economist Associate and Research Economist classes effective July 1, 2014. The Commission did not address the abolishment of the Research Economist I class which was requested by the class study at that time.

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER URLACHER, AND THE MOTION ADOPTED 3-0 TO APPROVE THE ABOLISHMENT AND REVISION OF THE FOLLOWING CLASS TITLES TO BE EFFECTIVE NOVEMBER 1, 2014:

B. Police Officer Trainee (abolish)

Police Officer I (revise)

Police Officer II (revise)

Police Officer III (revise)

IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER URLACHER, AND THE MOTION ADOPTED 3-0 TO APPROVE THE ABOLISHMENT OF THE FOLLOWING CLASS TITLE RETROACTIVE TO JULY 1, 2014:

C. Research Economist I (abolish)

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER KREY, AND THE MOTION ADOPTED 3-0 TO DISAPPROVE ANY CLASS SPECIFICATIONS RECEIVED BY THE COMMISSION NOT CONTAINED IN THIS REPORT TO ALLOW ADEQUATE STUDY.

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VII. CONSIDERATION OF THE SEPTEMBER 22, 2014 RESPONSE OF THE DIRECTOR OF CENTRAL MANAGEMENT SERVICES REGARDING GRIEVANCE COMMITTEE ACTIVITY PURSUANT TO SECTION 303.30 OF THE PERSONNEL RULES

Executive Director Stralka suggested to the Commissioners that due to the absence of a Central Management Services representative at the Chicago office as well as the absence of Chairman FitzGerald and Commissioner Anderson, this matter be continued to the November meeting. The Commissioners concurred with this suggestion.

VIII. MOTION TO CLOSE A PORTION OF THE MEETING

IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER URLACHER, AND BY ROLL CALL VOTE THE MOTION ADOPTED 3-0 TO CLOSE A PORTION OF THE MEETING PURSUANT TO SUBSECTIONS 2(c)(1), 2(c)(4), AND 2(c)(11) OF THE OPEN MEETINGS ACT.

FITZGERALD		ANDERSON	
CUMMINGS	YES	KREY	YES
URLACHER	YES		

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IX. RECONVENE THE OPEN MEETING

Upon due and proper notice the regular open meeting of the Illinois Civil Service Commission was reconvened at 160 North LaSalle Street, Suite S-901, Chicago, Illinois at 11:45 a.m.

PRESENT

Anita M. Cummings, Susan Moylan Krey, and Casey Urlacher, Commissioners; Daniel Stralka, Executive Director; and Andrew Barris, Assistant Executive Director.

X. NON-MERIT APPOINTMENT REPORT

The Personnel Code permits non-merit appointments for a limited period of time, i.e., emergency appointments shall not exceed 60 days and shall not be renewed, and positions shall not be filled on a temporary or provisional basis for more than six months out of any twelve-month period. Consecutive non-merit appointments are not violative of the Code; however, they do present a possible evasion of merit principles and should be monitored. Set forth below is the number of consecutive non-merit appointments made by each department.

Agency	8/31/14	9/30/14	9/30/13
Aging	0	0	1
Agriculture	0	0	3
Children and Family Services	2	0	2
Corrections	1	0	0
Healthcare and Family Services	4	0	2
Historic Preservation Agency	5	1	11
Human Rights Department	1	0	0
Human Services	3	4	0
Juvenile Justice	1	0	0
Natural Resources	26	8	10
Revenue	2	0	3
State Retirement Systems	1	0	0
Totals	46	13	32

XI. INTERLOCUTORY APPEALS

DA-42-14

Employee	Windy M. Reese	Appeal Date	05/05/14
Agency	Human Services	Decision Date	10/03/14
Type	Discharge	ALJ	Andrew Barris
Issue(s)	Motion To Dismiss for default (no show at hearing)	Proposal for Decision	Motion to Dismiss granted subject to approval of Commission; default.

IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER URLACHER, AND BY ROLL CALL VOTE OF 3-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE PROPOSAL FOR DECISION OF THE ADMINISTRATIVE LAW JUDGE TO DISMISS THE APPEAL FOR DEFAULT.

FITZGERALD		ANDERSON	
CUMMINGS	YES	KREY	YES
URLACHER	YES		

DA-6-15

Employee	Latoya Jackson	Appeal Date	07/23/14
Agency	Human Services	Decision Date	10/03/14
Type	Discharge	ALJ	Andrew Barris
Issue(s)	Motion To Dismiss for default (failure to respond to Motion to Dismiss)	Proposal for Decision	Motion to Dismiss granted subject to approval of Commission; default.

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER URLACHER, AND BY ROLL CALL VOTE OF 3-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE PROPOSAL FOR DECISION OF THE ADMINISTRATIVE LAW JUDGE TO DISMISS THE APPEAL FOR DEFAULT.

FITZGERALD		ANDERSON	
CUMMINGS	YES	KREY	YES
URLACHER	YES		

DA-9-15

Employee	Orlando Monte	Appeal Date	8/26/14
Agency	Employment Security	Decision Date	9/15/14
Type	Discharge	ALJ	Daniel Stralka
Issue(s)	Motion To Dismiss for default (no show at hearing)	Proposal for Decision	Motion to Dismiss granted subject to approval of Commission; default.

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER KREY, AND BY ROLL CALL VOTE OF 3-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE PROPOSAL FOR DECISION OF THE ADMINISTRATIVE LAW JUDGE TO DISMISS THE APPEAL FOR DEFAULT.

FITZGERALD		ANDERSON	
CUMMINGS	YES	KREY	YES
URLACHER	YES		

XII. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEALS

DA-2-15

Employee	Shanquwil Jones	Appeal Date	07/14/14
Agency	Human Services	Decision Date	10/03/14
Type	Discharge	Proposal for Decision	Discharge upheld.
ALJ	Andrew Barris		

IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER URLACHER, AND BY ROLL CALL VOTE OF 3-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE PROPOSAL FOR DECISION OF THE ADMINISTRATIVE LAW JUDGE TO UPHOLD THE DISCHARGE.

FITZGERALD		ANDERSON	
CUMMINGS	YES	KREY	YES
URLACHER	YES		

RV-35-14

Employee	Mary L. Ray	Appeal Date	3/31/14
Agency	Central Management Services	Decision Date	9/18/14
Type	Rule Violation	Proposal for Decision	No violation.
ALJ	Andrew Barris		

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER KREY, AND BY ROLL CALL VOTE OF 3-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE PROPOSAL FOR DECISION OF THE ADMINISTRATIVE LAW JUDGE THAT NO VIOLATION OF THE PERSONNEL CODE OR PERSONNEL RULES HAS BEEN PROVEN BY A PREPONDERANCE OF THE EVIDENCE.

FITZGERALD		ANDERSON	
CUMMINGS	YES	KREY	YES
URLACHER	YES		

XIII. APPEALS DISMISSED WITH NO DECISIONS ON THE MERITS

DA-29-14

Employee	Renee D. Clark	Appeal Date	3/12/14
Agency	Human Services	Decision Date	9/15/14
Appeal Type	Discharge	Proposal for Decision	Dismissed; settled.
ALJ	Daniel Stralka		

DA-8-15

Employee	Eric J. Heyen	Appeal Date	8/15/14
Agency	Revenue	Decision Date	9/10/14
Appeal Type	Discharge	Proposal for Decision	Dismissed; withdrawn.
ALJ	Andrew Barris		

DA-13-15

Employee	Olga M. Jackson	Appeal Date	09/19/14
Agency	Human Services	Decision Date	10/01/14
Appeal Type	Discharge	Proposal for Decision	Dismissed; withdrawn.
ALJ	Daniel Stralka		

IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER URLACHER, AND BY ROLL CALL VOTE OF 3-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE PROPOSALS FOR DECISION OF THE ADMINISTRATIVE LAW JUDGES TO DISMISS THE APPEALS.

FITZGERALD		ANDERSON	
CUMMINGS	YES	KREY	YES
URLACHER	YES		

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XIV. MEETING SCHEDULE FOR CALENDAR YEAR 2015

Executive Director Stralka suggested to the Commissioners that due to the absence of Chairman FitzGerald and Commissioner Anderson, this matter be continued to the November meeting. The Commissioners concurred with this suggestion.

XV. STAFF REPORT

Executive Director Daniel Stralka reported that:

- He would provide a brief update as to recent events regarding the Staff Assistant positions at the Illinois Department of Transportation. He noted the Attorney General had filed an amicus curiae brief with the *Shakman* court on behalf of the Office of the Executive Inspector General (OEIG) which spelled out its role and jurisdiction in the matter being considered by the Court. He specifically noted how it referenced the OEIG's responsibility with regard to reviewing hiring practices so that agencies are complying with all applicable employment laws. Nowhere does this filing reference the Civil Service Commission's role in enforcing the Personnel Code and Personnel Rules, both of which govern employment practices in the State of Illinois. After a brief discussion, the assembled Commissioners agreed that this matter should be discussed again at the November meeting. The Commissioners also expressed satisfaction with the draft of a letter to the entities involved in any restructuring of the process whereby IDOT employees are determined to be "technical" and consequently fully exempt from the Personnel Code.
- Recent legislation passed by the Secretary of State impacted its Merit Commission so that they now have 45 days from the date of appeal filing to commence any required hearing. The Commission's timeframe remains at 30 days and at this time Staff sees no need to request an additional 15 days.
- After an exemption is approved, agencies often file clarifications with the Commission of the position description. Commission Staff reviews the new position descriptions to ensure that the position is performing substantially the same duties that justified the exemption in the first place. In the month of August, Staff reviewed 91 such clarifications.

XVI. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular open meeting to be held on Friday, November 21, 2014 at 11:00 a.m. in the Commission's Chicago office.

XVII. MOTION TO ADJOURN

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER URLACHER, AND THE MOTION ADOPTED 3-0 TO ADJOURN THE MEETING AT 11:50 A.M.